IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 919 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DHIRAJLAL HARILAL OZA

Versus

STATE OF GUJARAT

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Appearance:

1. Civil Revision Application No. 919 of 2001

PARTY-IN-PERSON for Petitioner No. 1

Mr.U.R.Bhatt,learned AGP for Respondent No. 1-4

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CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 08/04/2002

ORAL JUDGEMENT

1. Heard petitioner in person and Mr.U.R.Bhatt,learned AGP for the respondents. The challenge in this Revision Application is in respect of the order passed by the learned Appellate Court dated 20.6.2001 below Application Exh.5 in Regular Civil Appeal

No.62 of 2001, wherein the learned 2nd Extra Assistant Judge, Surat has, while considering the Application Exh.5 filed by the petitioner - plaintiff in Regular Civil Appeal No.62 of 2001, dismissed the application by reasoned order. As found from the order below application Exh.5, the petitioner - original plaintiff has challenged the judgment and decree passed by the learned Civil Judge (S.D.), dated 13.9.2000 in Regular Civil Suit No.1328/89 as the Suit filed by the plaintiff was dismissed. After the dismissal of the Suit, the petitioner - plaintiff has preferred Appeal before the appellate court and filed Application Exh.5 praying for certain reliefs on 20.10.2000. Reliefs sought for by the petitioner - plaintiff in Application Exh.5 are reproduced as under:-

"(1) Dismissal order DPE 1830/921 V-1 dated 10.11.89 may kindly be stayed till final disposed of this Regular Civil Appeal No.62 of 2000.

(2) Stay order against non-payment of pension, gratuity G.P.Fund,Group Insurance fund may kindly be issued.

(3) Unauthorised Forest persons such as Shri Gajjar Clerk, Shri Shukla, etc. are approaching bench clerk seeking Court record etc. and propagating against me and trying to delay.Their entry in court complex may kindly be banned.

(4) Order for daily hearing of Appeal bearing No.26 of 1996 may kindly be ordered.

(5) Any other relief in the facts and circumstances of the case may please be granted, looking to the facts and circumstances of this appeal, in the interest of justice."

2. I am not expressing anything about the contentions raised in this Revision Application as well as about the order under challenge passed by the appellate court while rejecting Application Exh.5 filed by the petitioner - plaintiff. Mr. Oza, the petitioner in person, has brought to my notice that during the pendency of the present Revision Application, the appellate court, namely, the learned 2nd Extra Assistant Judge,Surat has already heard the main Appeal being Regular Civil Appeal No.62 of 2001 and the arguments were concluded by both the parties in last October 2001 and the learned appellate court has kept the said Appeal for pronouncement of the judgment on 5.4.2002. However, as

informed by Mr.Oza, on that day the court was on leave and the appellate court has kept the matter for pronouncement of judgment on 11.4.2002. In view of the above, without expressing anything on the merits of the case and even without considering the order under challenge, this court is of the view that in this Revision Application this court is not required to examine the contentions raised in this Revision Application when the petitioner has challenged the order below Application Exh.5 in Appeal. As the Appeal itself is heard by the appellate court on merits and the Appeal is only pending for pronouncement of the judgment, it is expected that the appellate court shall pronounce the judgment on the date fixed or for some reason if the court is on leave, the learned Judge is directed to see that the judgment in Regular Civil Appeal No.62 of 2001 is pronounced on or before 15.4.2002.

3. With these observations,the Appeal is disposed of. Rule is discharged. No order as to costs.

(D.K.Trivedi,J)

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